

Constance E. Nelson

November 11, 2005

Crystal Lake, IL

38

1 A Northern Illinois Medical
2 Association. NIMC is in McHenry and they also have
3 an office in Woodstock, and I went to both offices.

4 MS. FEGAN: Just blurt it out when
5 it comes to you. It will come.

6 THE WITNESS: I know. I can picture
7 him, but I can't remember. That's frustrating.

8 BY MR. ROBACK:

9 Q What about Dr. Bugnow?

10 A Dr. Bungo?

11 Q Bungo.

12 A Yes, he works for NIMC. Cancer --
13 the cancer center there.

14 Q Do you believe that your doctors
15 have conspired with drug companies to defraud you?

16 MS. FEGAN: Objection, calls for a
17 legal conclusion. You could answer.

18 THE WITNESS: No.

19 I'm looking for his card.

20 MR. ROBACK: I'm going to mark as
21 Exhibit Nelson 002 the document captioned Affidavit
22 of Constance Nelson.

Constance E. Nelson

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Crystal Lake, IL

44

1 Q What about payments?

2 A No.

3 Q Do these records reflect anyone
4 being billed for Cytosan?

5 A No.

6 Q Do these records reflect any charges
7 being based on AWP, or average wholesale price?

8 A No.

9 Q Do these records reflect your being
10 prescribed the drug Rubex? And I'd like to help
11 you out, but I at least could not find Rubex on
12 these records.

13 A I don't know. It doesn't show.

14 Q If you look one line up from where
15 you were looking at Cytosan, do you see the drug
16 Adriamycin?

17 A Yes.

18 Q So does it appear you were
19 prescribed Adriamycin?

20 A Yes.

21 Q Do these records reflect any
22 payments made for Adriamycin?

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46

1 A Yeah, it's there. It's somewhere
2 else, too. Yes.

3 Q Do these records reflect who
4 manufactured the Heparin Sod?

5 A It says Lock.

6 Q Do you know whether that's referring
7 to the manufacturer or not?

8 A No.

9 Q So is it correct that you have no
10 way of knowing from these records whether the
11 Heparin Sodium you were prescribed was being
12 manufactured by a specific company?

13 A No, I don't know.

14 Q Do you know whether any charges for
15 Heparin Sod was based on AWP --

16 A No.

17 Q -- or average wholesale price?

18 A No.

19 Q Do these records reflect anyone
20 being billed for the Heparin Sod you were
21 prescribed?

22 A No.

Constance E. Nelson

November 11, 2005

Crystal Lake, IL

47

1 Q Do these records reflect any
2 payments for the Heparin Sodium?

3 A No.

4 Q Do these records reflect you being
5 prescribe the medication Dexamethasone Sodium? And
6 if you look five lines down from the first Heparin
7 Sodium.

8 A Yes.

9 Q Do these records reflect who
10 manufactured the Dexamethasone Sodium?

11 A No.

12 Q So is it correct that you have no
13 way of knowing from these records whether the
14 Dexamethasone Sodium you were prescribed was
15 manufactured by a specific company?

16 A No way of knowing.

17 Q Do you know whether any charges for
18 the Dexamethasone Sodium you were prescribed was
19 based on AWP?

20 A No.

21 Q Do these records reflect anyone
22 being billed for the Dexamethasone Sodium you were

EXHIBIT 24

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EXHIBIT 25

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EXHIBIT 26

Pauline Vernick

November 7, 2005

Deerfield, IL

1

UNITED STATES DISTRICT COURT

DISTRICT OF MASSACHUSETTS

CERTIFIED COPY

IN RE: PHARMACEUTICAL INDUSTRY)

AVERAGE WHOLESALE PRICE)MDL No. 1456

LITIGATION)Master File No.

) 01-CV-12257-PBS

)

)Judge Patti B. Saris

This Document Relates to)

ALL ACTIONS.)

Deposition of PAULINE VERNICK taken before
PAULINE STROHL, C.S.R., and Notary Public, pursuant
to the Federal Rules of Civil Procedure for the
United States District Courts pertaining to the
taking of depositions, at 1750 Lake Cook Road,
Deerfield, Illinois, at 2:00 o'clock p.m. on the 7th
day of November, 2005.

Henderson Legal Services
(202) 220-4158

Pauline Vernick

November 7, 2005

Deerfield, IL

22

1 A Usually.

2 Q Has your family ever had any other insurance
3 besides the Blue Cross Blue Shield through the union?

4 A No, just my husband's coverage.

5 Q Were either of you eligible for Medicare?

6 A No.

7 Q Have you ever been eligible for Medicaid?

8 A No.

9 Q Do you receive any Social Security benefits?

10 A No.

11 Q Do you have any disability insurance?

12 A No.

13 Q I take it since you were never in the
14 military, you don't receive any veteran benefits?

15 A No.

16 Q Have you ever had any other health insurance
17 in the last -- since 1991 besides Blue Cross Blue
18 Shield that you can recall?

19 A I have had --

20 MS. CONNOLLY: Objection, asked and answered.
21 You can answer it again.

22 A Oh, I have had dental.

Pauline Vernick

November 7, 2005

Deerfield, IL

31

1 A I only --

2 MS. CONNOLLY: Is that a question?

3 BY MR. TRETTER:

4 Q Well, are you aware of that?

5 A All I know is the name Cytoxan.

6 Q Yes. But it has a molecule name which I
7 can't pronounce.

8 A I don't think the molecular name.

9 Q I guess what I'm asking is did you ever see a
10 manufacturer label on the drug that you were
11 prescribed?

12 A I don't remember.

13 Q So other than the conversation with your
14 doctor about I'm going to prescribe Adriamycin and
15 Cytoxan, do you have any other basis for knowing
16 which manufacturers' drugs may have been provided?

17 MS. CONNOLLY: Objection, mischaracterizes her
18 previous testimony.

19 MR. TRETTER: I don't want to mischaracterize her
20 testimony. I assume your doctor told you that you
21 were going to get Cytoxan?

22 A Right.

Pauline Vernick

November 7, 2005

Deerfield, IL

32

1 Q My question to you is other than your doctor
2 telling you that, do you have any basis to know which
3 manufacturers' version of Cytosan you received?

4 A No, I don't.

5 Q How about the same question for Adriamycin.
6 I don't know if Adriamycin is a single source drug or
7 a generic drug?

8 A I don't know either.

9 Q You don't know which manufacturer it was?

10 A No.

11 Q Anzemet I think --

12 A It's anti-nausea pill.

13 Q Do you know who makes it, do you know?

14 A I don't remember.

15 Q Do you remember which manufacturer?

16 A I don't remember.

17 Q During the course of therapy did the drugs
18 ever change or was it the same thing that was infused
19 each time?

20 A The same. The same drugs.

21 Q Has it been successful?

22 A Yes, it has, knock on wood.

Pauline Vernick

November 7, 2005

Deerfield, IL

49

1 A Do I answer that?

2 MS. CONNOLLY: Yes, you can.

3 A Well, the insurance companies are paying the
4 doctor. But then the doctors are paying inflated
5 prices because they're being charged the inflated
6 prices so it all trickles down to the insurer.

7 MR. TRETTER: Okay. Now I think we have got it.
8 Do you have some understanding or is this your
9 understanding that a part of the allegation, a key
10 allegation in the complaint is that the doctors do
11 not pay based on average wholesale price. That the
12 doctors get the drugs very inexpensively and
13 therefore are making profit on the drugs called
14 spread or margin?

15 MS. CONNOLLY: Objection to form.

16 MR. TRETTER: Did you see that in the complaint?

17 A I understood a little bit of that with the
18 spread.

19 Q Okay. So The spread is the idea that the
20 doctor buys at price A, but gets reimbursed by the
21 insurance company at price B. correct?

22 A Right, but if price A wasn't so high to begin

Pauline Vernick

November 7, 2005

Deerfield, IL

50

1 with, then the insurance company wouldn't have to pay
2 as much back to them. Correct?

3 Q Well, but if price A -- I see.

4 A Do you know what I mean?

5 Q What you're saying is that you think the
6 lawsuit is that even the doctors are paying too much
7 for the drug?

8 A They probably are, too.

9 Q Well, let me ask you a different question.
10 Do you think it's okay for the doctor to make some
11 profit on services that he or she provides as well as
12 the goods like the drugs that he or she provides?

13 MS. CONNOLLY: Objection to form.

14 MR. TRETTER: I'm talking about an oncologist,
15 for example?

16 A Well, I don't think they should make money on
17 the drugs.

18 Q Why should they make money on the services,
19 and not make money on the drugs?

20 A Because the drugs aren't a service that
21 they're providing.

22 Q Yes, but if somebody -- okay.

Pauline Vernick

November 7, 2005

Deerfield, IL

84

1 Q Well, do you believe you have any
2 responsibility to ask the attorneys what they're
3 doing, probing questions, saying well, you know, I've
4 read the complaint, but Mr. Tretter said there is
5 another side to the story, do you have any obligation
6 to look into that other side of the story?

7 MS. CONNOLLY: Objection to form.

8 A Do I have to answer that?

9 MS. CONNOLLY: Yes, if you understand it.

10 A Yes, I believe I could. But I mean what
11 other evidence? I haven't seen any other evidence
12 other than what's in the complaint.

13 MR. TRETTER: Right. I guess one question is are
14 you completely dependent on your lawyers for
15 information about the case or do you have some other
16 way of getting information?

17 A Well, right now I'm dependent on my lawyer.

18 Q We talked a little bit about your feelings
19 about your doctor, which I assume are pretty
20 positive. And we talked a little bit about why he
21 picked the particular drugs that he picked. My
22 question is whether you have any reason to believe

Pauline Vernick

November 7, 2005

Deerfield, IL

85

1 that he had any financial incentive or motivation
2 that affected his decision of which drugs to
3 prescribe?

4 MS. CONNOLLY: Objection, calls for speculation.
5 You can answer.

6 A No.

7 MR. TRETTER: Do you have any view about what
8 drug prices should be reported? I know you've said
9 something that you think that the drug prices that
10 are reported to these publications is too high. What
11 price do you think should have been reported?

12 MS. CONNOLLY: Objection to form.

13 A Can I answer?

14 MS. CONNOLLY: Sure.

15 A Well, you know, I have no idea what these
16 drugs cost. But when I saw, you know, what the
17 spread was, I mean some of the amounts were like 900
18 percent above what the wholesale price should have
19 been for the drugs.

20 MR. TRETTER: So are you saying the price that
21 should have been reported is the price that the
22 doctor actually got the drug at?

EXHIBIT 27

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EXHIBIT 28

11/15/2005 Hopkins, Rebecca A. (ROUGH DRAFT)

1 IN THE UNITED STATES DISTRICT COURT FOR THE
2 DISTRICT OF MASSACHUSETTS

3 - - - -

4 IN RE:) MDL Docket No.
5) 1456
6 PHARMACEUTICAL INDUSTRY) Civil Action
7 AVERAGE WHOLESALE PRICE) 01CV12257-PBS
8 LITIGATION)

9 - - - -

10 DEPOSITION OF: REBECCA ANNE HOPKINS
11 - - - -

12 DATE: November 15, 2005
13 Tuesday, 9:30 a.m.

14 LOCATION: AKF Reporters, Inc.
15 150 East Eight Street
16 Erie, Pennsylvania

17 TAKEN BY: Defendants,
18 Bristol-Myers Squibb,
19 Apothecon, and
20 OTN

21 REPORTED BY: Kristina Kircher
22 Notary Public
23 AKF Reference No. KK91330
24
25

11/15/2005 Hopkins, Rebecca A. (ROUGH DRAFT)

1 A. No.

2 Q. Have you ever worked for a city or state
3 government?

4 A. Yes.

5 Q. And when was that?

6 A. I worked for -- let's see. City or state
7 government?

8 Q. Yes, either.

9 A. Not a county government?

10 Q. Tell me about the counties you worked for.

11 A. Okay, I worked for Dauphin Residencies, Dauphin
12 County in Harrisburg, Pennsylvania. Dauphin
13 Residencies was a resident -- I was a resident
14 advisor for mentally retarded adults, and then
15 I worked for the Bi-County Office of the Aging
16 in Williamsport, Pennsylvania. I had a -- that
17 was a Meals on Wheels and senior citizens
18 center, and I worked for Alameda County for the
19 Housing and Community Development Program.

20 Q. Okay, did you grow up in Pennsylvania?

21 A. Yes.

22 Q. Okay, are you eligible for Medicare?

23 A. No.

24 Q. Have you ever received any payments from
25 Medicare?

11/15/2005 Hopkins, Rebecca A. (ROUGH DRAFT)

1 A. No.

2 Q. Are you eligible for Medicaid?

3 A. No.

4 Q. Have you ever received any payments from

5 Medicaid?

6 A. No.

7 Q. Are you eligible for any Pennsylvania state

8 medical assistance program?

9 A. I currently am on the Access program.

10 Q. Can you spell that for me?

11 A. A-c-c-e-s-s.

12 Q. Okay, and what is that?

13 A. It's through the Pennsylvania Welfare

14 Department.

15 Q. Okay, and what kind of benefits do you receive

16 from that?

17 A. My health insurance.

18 Q. Okay, and who pays for that health insurance?

19 A. Pennsylvania Welfare Department.

20 Q. Okay, and how long have you had your medical

21 insurance through the welfare department?

22 A. Two years.

23 Q. Okay, and what are the -- do you have any

24 documents that relate to that health insurance?

25 A. Yes.

11/15/2005 Hopkins, Rebecca A. (ROUGH DRAFT)

1 MR. LEVY: Mr. Berman, Mr. Haviland,
2 one of the lead counsel.

3 MR. SWEENEY: There are several
4 things that you said in your statement I don't
5 agree with, but so we don't waste the witness'
6 time, I won't respond to all of them.

7 MR. LEVY: Fine.

8 BY MR. SWEENEY:

9 Q. Now, ma'am, I want to take you back to 1991,
10 and I want you to describe for me any medical
11 insurance you had from 1991 forward. Can you
12 do that as best you can?

13 Let's start with 1991. Did you have
14 medical insurance in 1991?

15 A. Yes.

16 Q. And who did you have that medical insurance
17 with?

18 A. Through my husband's employment, New United
19 Motors in Fremont, California.

20 Q. What was the name again?

21 A. New United Motors.

22 Q. And what kind of company was that?

23 A. A Toyota/GM joint venture.

24 Q. Okay, is your husband an engineer? You said he
25 worked on manufacturing processes. What kind

11/15/2005 Hopkins, Rebecca A. (ROUGH DRAFT)

1 of training did he have?

2 A. Manufacturing.

3 Q. Okay, and was that insurance with a health
4 insurance company?

5 A. Yes.

6 Q. What was the name of the health insurance
7 company?

8 A. I imagine it was Blue Cross/Blue Shield.

9 Q. Okay, and this was while you were in Oakland?

10 A. Yes.

11 Q. Now, while you had that insurance, did it cover
12 physician-administered drugs?

13 A. Yes, I imagine. I don't know. I didn't have
14 any.

15 Q. You weren't administered any
16 physician-administered drugs during this
17 period, beginning of 1991?

18 A. I was in the hospital in June, and I had my
19 surgery. But I don't know what -- I had pain
20 medications, but I don't know if that's
21 considered a physician-administered drug.

22 Q. Did you have chemotherapy at that time?

23 A. No, I did not.

24 - - - -

25 (Exhibit 1 marked for identification.)

1
2 MR. SWEENEY: We've marked as Hopkins
3 Exhibit 1 what appears to be a medical summary
4 for Ms. Hopkins.
5 BY MR. SWEENEY:
6 Q. Is this a medical summary relating to you?
7 A. Appears to be.
8 Q. And do you know who prepared this?
9 A. This might be from my husband.
10 Q. Okay, counsel has represented to us that it was
11 prepared by your husband.
12 A. Yes.
13 Q. Do you know how he did this?
14 A. Kept track and just put it in the computer as
15 things were going on.
16 Q. Over time?
17 A. Yes, over a period of time.
18 Q. All right, have you ever reviewed this to see
19 if it's accurate?
20 A. If this is the same one he did, yes, I have.
21 Q. Okay, there have been various versions of this
22 over time?
23 A. As we've updated it.
24 Q. Yes?
25 A. Yes.

11/15/2005 Hopkins, Rebecca A. (ROUGH DRAFT)

1 Q. Now, take a look at No. 1 on the first page.

2 A. Okay.

3 Q. Is that an accurate description of the
4 treatment you got in June of 1991?

5 A. Ah-huh.

6 Q. Was that a yes?

7 A. Yes.

8 Q. I'm sorry, you can't say ah-huh.

9 A. I'm sorry, yes.

10 Q. And that indicates you didn't have any
11 chemotherapy or any other cancer treatment
12 other than the surgery?

13 A. No.

14 Q. Okay, now, in 1994, you moved to North East,
15 and when you moved to North East, what type of
16 medical insurance did you have?

17 A. I was -- when we moved to North East, I was not
18 -- my insurance did not cover my cancer. It
19 was for accidents. I was going to be picked up
20 again in June of '95.

21 Q. And beginning in February of 1995, you started
22 to have treatment for cancer?

23 A. Yes.

24 Q. Okay, and that treatment was not covered by
25 insurance?

11/15/2005 Hopkins, Rebecca A. (ROUGH DRAFT)

1 A. No.

2 Q. Okay, and how long was that for?

3 A. Just one month.

4 Q. Okay, I think I've seen a document that said

5 you've had insurance beginning April 1, 1995?

6 A. Yes.

7 Q. Is that correct?

8 A. Yes.

9 Q. Okay, and who was that insurance from, the

10 insurance that began April 1, 1995?

11 A. Alliance.

12 Q. Alliance?

13 A. (Witness nods head up and down.)

14 Q. Okay, and was that through your husband's

15 employment?

16 A. It was through our Oakland Consulting Group.

17 Q. So Oakland Consulting Group has a contract with

18 Alliance for you and your husband's medical

19 insurance?

20 A. At that time, we did.

21 Q. And you still have a copy of that contract at

22 home?

23 A. I may have sent that.

24 Q. Okay, do you have a copy of the description of

25 the medical insurance that you got from

11/15/2005 Hopkins, Rebecca A. (ROUGH DRAFT)

1 Alliance in that period?

2 A. I may have.

3 Q. And how long did you have the insurance with

4 Alliance?

5 A. Two years, it may have been two or three years.

6 Q. So until 1996 or 1997?

7 A. May have been.

8 Q. Okay, and did that insurance cover major

9 medical?

10 A. Yes.

11 Q. Hospital stays?

12 A. Yes.

13 Q. Did it cover physician-administered drugs?

14 A. Yes.

15 Q. Did you have to make any payments for doctors'

16 visits or physician-administered drugs?

17 A. Yes.

18 Q. What kind of payments did you make?

19 A. Co-pays.

20 Q. Were they flat co-pays, 10 or \$20?

21 A. I believe so.

22 Q. Or some other flat amount?

23 A. (Witness nods head up and down.)

24 Q. Yes, okay. Now, after the insurance with

25 Alliance, who did you have medical insurance

11/15/2005 Hopkins, Rebecca A. (ROUGH DRAFT)

1 through?

2 A. Blue Cross.

3 Q. Now, can you be more specific about the Blue
4 Cross company?

5 A. Blue Cross/Blue Shield.

6 Q. Of Pennsylvania?

7 A. Of Pennsylvania.

8 Q. Okay, is that a company that has come to be
9 called Highmark?

10 A. Yes.

11 Q. And how did you get that insurance?

12 A. Through our company.

13 Q. Oakland Consulting had a contract with Blue
14 Cross/Blue Shield of Pennsylvania?

15 MR. LEVY: Could you we state that
16 question? I'm sorry.

17 BY MR. SWEENEY:

18 Q. Did Oakland Consulting have a contract with
19 Blue Cross/Blue Shield of Pennsylvania for your
20 medical insurance?

21 A. Actually I don't believe so. That may have
22 been when my husband was working for another
23 company.

24 Q. Which company was that? Let me see if I can
25 help you. I've seen references to two

11/15/2005 Hopkins, Rebecca A. (ROUGH DRAFT)

1 different companies, Aerotek and Allegious
2 Group.

3 A. Aerotek.

4 Q. So you think the insurance may have been
5 through Aerotek?

6 A. Yes.

7 Q. And how long did you and your husband have that
8 insurance?

9 A. I'm sorry, it may have been two years.

10 Q. How long was your husband with Aerotek?

11 A. It may have been two years.

12 Q. Was there a gap between the Alliance Insurance
13 and the Blue Cross/Blue Shield insurance?

14 A. No.

15 Q. And what kind of insurance was the Blue
16 Cross/Blue Shield insurance? Was it major
17 medical?

18 A. Yes.

19 Q. Covered doctors' visits and hospital stays?

20 A. Yes.

21 Q. And did it cover physician-administered drugs?

22 A. Yes.

23 Q. Did it cover pharmacy, drugs you got at the
24 pharmacy?

25 A. Yes.

11/15/2005 Hopkins, Rebecca A. (ROUGH DRAFT)

1 Q. And what kind of payments did you have to make
2 under this insurance?
3 A. Co-pays.
4 Q. And flat co-pays, 10 or 20?
5 A. I believe so.
6 Q. Okay, and you think that this insurance lasted
7 for about two years?
8 A. Possibly.
9 Q. So that would get us up until 1999 or 2000?
10 A. Okay.
11 Q. Do you recall, or are you just agreeing with me
12 to be nice? Don't agree with me to be nice.
13 Testify to what you recall, okay?
14 A. I don't recall the exact dates.
15 Q. Okay, that's fair enough. That's going to
16 happen, and I have a few documents I can show
17 you that may help later on, okay? But I want
18 to get through this chronology first, okay?
19 A. Ah-huh.
20 Q. After the Blue Cross/Blue Shield of
21 Pennsylvania insurance, what insurance did you
22 have through Aerotek?
23 A. Aerotek might have been Blue Cross/Blue Shield
24 of Ohio. I'm not sure.
25 Q. Okay.

11/15/2005 Hopkins, Rebecca A. (ROUGH DRAFT)

1 MR. LEVY: If you don't know the
2 answer to a question, say I don't know rather
3 than guess.

4 THE WITNESS: I don't know. You're
5 right. I don't know.

6 BY MR. SWEENEY:

7 Q. What made you say you thought it might have
8 been Blue Cross/Blue Shield of Ohio?

9 A. I shouldn't have said that. My husband was
10 working in Ohio at the time.

11 Q. For Aerotek?

12 A. Yes.

13 Q. Okay, now, after he stopped working for
14 Aerotek, where did you get your medical
15 insurance?

16 A. I don't know. It could have been Cobra. Is
17 that --

18 MR. LEVY: Whatever you recall.

19 BY MR. SWEENEY:

20 Q. Was the Cobra with Blue Cross/Blue Shield of
21 Pennsylvania?

22 A. Yes, I believe, if it was Cobra.

23 Q. And how long did that last?

24 A. Until we picked up insurance.

25 Q. Until Access?